United States Court of Appeals
for the
District of Columbia Circuit

TRANSCRIPT OF RECORD

United States Court of Appeals

DISTRICT OF COLUMBIA

APPEAL NO. 9273

615

CHARLES M. BUCK, APPELLANT

v.

CASPER W. OOMS, COMMISSIONER OF PATENTS, APPELLEE

APPEAL FROM THE JUDGMENT OF THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF COLUMBIA

BRIEF FOR APPELLEE

W. W. COCHRAN,
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BRIEF FOR THE COMMISSIONER OF PATENTS

INTRODUCTION

This is an appeal from the judgment of the District Court of the United States for the District of Columbia, dismissing the complaint in Civil Action No. 26,368, in which the appellant, under the provisions of R. S. 4915 (U. S. C., title 35, sec. 63), sought to have the court authorize the issuance of a patent on his application No. 380,083, for patent on a so-called method and means for generating power. The sole ground of rejection is that the apparatus and process disclosed are lacking in utility and that the application will not support the allowance of any claim. It is therefore unnecessary to consider the claims specifically.

APPELLANT'S APPLICATION

The apparatus disclosed by the application here involved is comparatively simple. It comprises a tank 29, containing a body of water which is open to the atmosphere, and a cylinder 2 which is closed at the top and which has its open lower end submerged below the surface of the water in the tank. The air is exhausted from this cylinder, so that it is filled with water, which is held above the level of the water in the tank by the pressure of the atmosphere, in the manner of the familiar water cooler. A pipe 1 opens at its lower end below the surface of the water in the tank and at its upper end, opens into the cylinder 2 near the top thereof. The pipe 1 contains a motor-driven pumping element 15, which forces water upwardly through the pipe, and a motor element 22 which is rotated by the water flowing through the pipe, and turns a pulley 33.

SUMMARY OF ARGUMENT

1. Appellant's device is not a siphon.

2. Unless the device here involved could deliver more power at the pulley 33 than is supplied to it by the motor 34 which drives the pump, it would serve no useful purpose.

3. If the device delivered more power than it received, it would be a perpetual motion machine.

4. The record clearly will not support a holding that the appellant has produced a perpetual motion machine.

ARGUMENT

Although a considerable part of the appellant's arguments relate to the flow of water in siphons, the apparatus disclosed by his application is not a siphon. A siphon requires two bodies of liquid at different elevations and both open to the atmosphere, in the manner shown on page 2A of the appellant's brief. In this arrangement the siphon merely conducts water from the higher to the lower level, although a portion of the siphon extends above both levels. The energy which produces the flow of water is supplied by the fall of water from the higher level to the lower one.

In the application, on the other hand, there is only one body of water which is open to the atmosphere, so that the passage of the water up the pipe 1 and down the cylinder 3 restores it to its original level and can supply no energy to it. It will thus be seen that although the device is, in some respects, similar to a siphon, it is not actually one and accordingly the appellant's speculations as to siphons are not directly in point.

It is evident that the mere circulation of water through the pipe 1 and cylinder 3 of appellant's apparatus does not, in itself, serve any useful purpose. So far as the actual utility of the device is concerned, the two important elements are the motor 34, which supplies power to the system and the pulley 33 which delivers power from the system. Unless the pulley supplies more power than the motor delivers, it would be better to eliminate the entire hydraulic apparatus and to mount the pulley 33 directly on the shaft of the motor 34, or connect the two by appropriate gearing.

On the other hand, if the pulley delivers more power than is supplied by the motor, it would be possible to dispense with the motor and connect the pulley 33 to drive the motor shaft 16, thus enabling the system to operate perpetually and to deliver power forever, without the necessity of supplying any power to it.

It will thus be seen that the appellant's device is without utility unless it is actually a perpetual motion machine. It is apparently the appellant's contention that his apparatus will operate in this manner, since his brief, on page 11, refers to an advantageous difference between the power supplied and the power delivered, while on page 19 of the brief it is stated that the device "makes available everywhere an inexhaustible source of free energy, recoverable in the first instance in rotary form ready for use in turning a shaft." It is obvious that an inexhaustible source of energy recoverable in the form of motion is neither more nor less than perpetual motion.

The appellant seems to argue that he has not produced perpetual motion in the generally accepted sense of that term, but has succeeded in tapping a new supply of potential energy. It will be evident, however, that there is actually no change in potential energy in appellant's system. Throughout the operation, the water remains at exactly the same level in the tank and cylinder and accordingly no potential energy can be derived from change in position of water. Similarly, there is no change in position of air which could supply energy. The atmosphere presses uniformly and without motion on the water in the tank, since the volume and over-all position of the water in the system remain unchanged, and there is thus no displacement of air. The action of the system would be exactly the same if, instead of atmospheric pressure, a weighted plunger were provided which covered and rested on the surface of the water in the tank. Such a plunger, like the air of the atmosphere, would remain stationary at all times and could contribute no potential energy to the system. It follows that the system can derive no potential energy from air or water and that it cannot deliver more energy than it receives unless it actually *creates* energy.

The principle of conservation of energy, i. e., that although energy can be changed from one form to another, it can neither be created nor destroyed, has been universally accepted for so long that no argument is necessary to support it here. Certainly such a principle cannot properly be disregarded on the basis of appellant's speculations or attempted demonstrations as to what happens in siphons.

If the device will operate in the manner alleged by the appellant, it should have been a comparatively easy matter to build a working model and to demonstrate it to the Patent Office or to the Court below. Such a demonstration would obviously be far more convincing that any amount of theory or computation. In the absence of such a demonstration, and in view of the fact that the appellant's contentions conflict with the generally accepted principles of physics, the

Patent Office and the lower court were clearly right in holding that the appellant had failed to show that his device possessed utility. Certainly there is no such showing of error in the decision appealed from as would justify its reversal, in view of the principle stated in *Abbott et al.* v. *Coe,* 71 App. D. C. 195, 109 F. (2d) 449.

CONCLUSION

It is respectfully submitted that the device disclosed by the appellant's application is inoperative for any useful purpose, and that the decision appealed from should be affirmed.

Respectfully submitted.

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